FEDERAL REGISTER

VOLUME 5 NUMBER 8

Washington, Friday, January 12, 1940

The President

EXECUTIVE ORDER

AMENDMENT OF SCHEDULE B OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by paragraph Eighth, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 403, 404), Schedule B of the Civil Service Rules is hereby amended by adding thereto the following subdivision:

"XII. THE NATIONAL ARCHIVES

"1. Classified positions in The National Archives when filled by the promotion of unclassified laborers appointed under the Labor Regulations, subject to the approval of the Commission."

This order is recommended by the Civil Service Commission in view of the agreement by The National Archives that hereafter unclassified laborer positions in The National Archives will be filled through appointment from appropriate classified registers as provided in section 3 of Civil Service Rule II. This procedure will permit unskilled laborers having a status under the Labor Regulations to advance upon noncompetitive examination to classified positions, but will not accord to such promoted employees a classified status nor render them eligible for transfer to classified positions in other branches of the Federal service.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 10, 1940.

[No. 8317]

[F. R. Doc. 40-195; Filed, January 11, 1940; 12:23 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER IX—DIVISION OF MARKETING AND MARKETING AGREEMENTS

[Order No. 44]

PART 944—ORDER REGULATING THE HANDLING OF MILK IN THE QUAD CITIES MARKETING AREA*

Sec.

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246) the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

*Section 944.0 to and including Section 944.12 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. 601 et seq. (1934) 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. 601 et seq. (Supp. IV 1938).

CONTENTS

THE PRESIDENT

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

CONTENTS—Continued

Whereas, under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary of Agriculture, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Quad Cities marketing area would tend to effectuate the declared policy of said act, gave, on the 14th day of July 1939, notice of a public hearing to be held at Rock Island, Illinois, on the 2d day of August 1939, on a proposed marketing agreement and a proposed order, which hearing was held on the 2d, 3d, and 4th days of August 1939 and reopened on the 18th day of October 1939[1] for the purpose of receiving additional evidence, and at said times and place conducted public hearings at which all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, after such hearing and after the tentative approval, on the 14th day of December 1939, by the Secretary, of a marketing agreement, handlers of more than fifty percent of the volume of milk covered by such order, which is marketed within the Quad Cities marketing area, refused or failed to sign such tentatively approved marketing agreement relating to milk; and

[1] 4 F. R. 4253 DI.

Whereas, the Secretary determined, on the 8th day of January 1940, said determination being approved by the President of the United States on the 8th day of January 1940, that said refusal or failure tends to prevent the effectuation of the declared policy of said act; that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area, and that this order is approved or favored by over sixty-seven percent of the producers who voted in a referendum conducted by the Secretary, and who, during the month of September 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in the Quad Cities marketing area; and

Whereas, the Secretary has found and proclaimed the period August 1923–July 1929, to be the base period to be used in determining the purchasing power of milk sold in the Quad Cities marketing area; and

Whereas, the Secretary finds that a pro rata assessment on handlers, as set forth in Sec. 944.10 of this order, at a rate not to exceed two cents per hundredweight on all milk received during each delivery period from producers and new producers and produced by handlers, will provide funds to pay such expenses as will necessarily be incurred by the market administrator under this order for the maintenance and functioning of said market administrator; and

§ 944.0 *Findings.* Whereas, the Secretary finds, upon the evidence introduced at said public hearings:

1. That all milk which is produced for sale in the marketing area is handled in the current of interstate commerce, or so as directly to burden, obstruct, or affect interstate commerce in milk and its products;

2. That the prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to sections 2 and 8e of said act, are not reasonable in view of the prices of feeds, the available supplies of feed, and other economic conditions which affect market supply of and demand for such milk, and that the minimum prices set forth in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

3. That this order regulates the handling of milk in the same manner as, and is applicable only to handlers defined in a marketing agreement upon which hearings have been held; and

4. That orderly marketing conditions for milk flowing into the Quad Cities marketing area are so disrupted as to result in the impairment of the purchasing power of such milk and that the issuance of this order, and all of its terms

and conditions, will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by the act, hereby orders that such handling of milk in the Quad Cities, Illinois-Iowa, marketing area as is in the current of interstate commerce or as directly burdens, obstructs, or affects interstate commerce shall, from the effective date hereof be in compliance with the following terms and conditions:

§ 944.1 *Definitions*—(a) *Terms.* The following terms shall have the following meanings:

(1) The term "Quad Cities marketing area," hereinafter called the "marketing area," means the territory lying within the corporate limits of the cities of Davenport and Bettendorf, Iowa; and Rock Island, Moline, East Moline, and Silvis, Illinois; together with the territory lying within the following townships: Davenport, Rockingham, and Pleasant Valley in Scott County, Iowa; and South Moline, Moline, Blackhawk, Coal Valley, Hampton, and South Rock Island in Rock Island County, Illinois.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The term "producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received at a plant from which milk is disposed of in the marketing area: *Provided,* That if such person did not regularly distribute milk in the marketing area or dispose of milk to a handler or to persons within the marketing area during a period of 30 days prior to the effective date hereof, but thereafter begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery of milk to a handler and including the first 2 full calendar months of regular delivery following first delivery to a handler, after which he shall be known as a producer. This definition of producer and new producer shall be deemed to include any person who produces milk which a cooperative association causes to be diverted from a plant from which milk is disposed of in the marketing area to a plant from which no milk is disposed of in the marketing area.

(4) The term "handler" means any person, except as provided in Sec. 944.8 (c), who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk in the marketing area; and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This definition shall be deemed to include a cooperative association with respect to the milk of any producer which it causes to be delivered to the plant of a handler or causes to be delivered to a plant from which no milk is disposed of in the marketing area, for the account of such cooperative association, and for which such cooperative association collects payment. This definition shall be deemed to include a handler who receives no milk other than that of his own production for the purposes of Sec. 944.5 only.

(5) The term "delivery period" means the period from the first to the last day of each month, both inclusive.

(6) The term "base" means the quantity of milk calculated for each producer pursuant to Sec. 944.8 (f).

(7) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

(8) The term "Secretary" means the Secretary of Agriculture of the United States.

(9) The term "market administrator" means the agency which is described in Sec. 944.2 for the administration hereof.

(10) The term "cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in the sale of milk of its members.

§ 944.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions hereof.

(2) Investigate and report to the Secretary complaints of violation of the provisions hereof.

(3) Make rules and regulations to effectuate the terms and provisions hereof.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and delivery to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.

(3) Submit his books and records to examination by the Secretary at any and all times.

(4) Furnish such information and such verified reports as the Secretary may request.

(5) Obtain a bond with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator.

(6) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 944.5 or (b) made payments pursuant to Sec. 944.8.

(7) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof.

(8) Pay, out of the funds provided by Sec. 944.10, (a) the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, (b) his own compensation, and (c) all other expenses necessarily incurred in the maintenance and functioning of his office.

(9) Promptly verify the information contained in reports submitted by handlers.

§ 944.3 *Classification of milk*—(a) *Milk to be classified.* Milk of a producer or new producer which a cooperative association causes to be delivered to a plant from which no milk is disposed of in the marketing area, for the account of such cooperative association and for which it collects payment, and all milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section, subject to the provisions of paragraphs (c) and (d) of this section.

(b) *Classes of utilization.* The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk disposed of in the form of milk and all milk not specifically accounted for as Class II milk, Class III milk, or Class IV milk.

(2) Class II milk shall be all milk disposed of as cream (for consumption or use as cream) and all milk disposed of as chocolate milk, or as any flavored milk drink.

(3) Class III milk shall be all milk specifically accounted for as used to produce evaporated milk, condensed milk, ice cream mix, or any milk product, other than those specified in Class II milk and Class IV milk.

(4) Class IV milk shall be all milk used to produce butter and American type Cheddar cheese and all milk accounted for as actual plant shrinkage; *Provided,* That such plant shrinkage shall not exceed 3 percent of the total receipts of milk from producers and new producers.

(c) *Interhandler and nonhandler sales.* Milk disposed of by a handler to another handler or to a person not a handler but who distributes milk or manufactures milk products shall be classified, subject to paragraph (d) of this section, as Class I milk: *Provided,* That if the selling handler, on or before the date fixed for filing reports pursuant to Sec. 944.5, furnishes

to the market administrator a statement signed by the buyer and the seller that such milk was disposed of other than as Class I milk, such milk shall be classified accordingly, subject to verification by the market administrator.

(d) *Sales of a cooperative association to any other handler.* Milk caused to be delivered from a producer to any other handler by a cooperative association which is a handler shall be ratably apportioned among the receiving handler's total Class I milk, Class II milk, Class III milk, and Class IV milk.

§ 944.4 *Minimum prices*—(a) *Class I prices.* Each handler shall pay, at the time and in the manner set forth in Sec. 944.8 for Class I milk, not less than the following prices:

(1) In the case of milk which complies with the Grade A milk quality requirements of the Milk Ordinance of the City of Davenport, Iowa, passed August 18, 1939, or of the Grade A Milk and Grade A Milk Products Law of the State of Illinois, passed July 19, 1939, and is disposed of as Class I milk, $2.40 per hundredweight: *Provided,* That with respect to such Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall not be less than $1.93 per hundredweight.

(2) In the case of milk which does not comply with the Grade A milk quality requirements of the Milk Ordinance of the City of Davenport, Iowa, passed August 18, 1939, or of the Grade A Milk and Grade A Milk Products Law of the State of Illinois, passed July 19, 1939, and is disposed of as Class I milk, $2.10 per hundredweight: *Provided,* That with respect to such Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be not less than $1.63 per hundredweight.

(b) *Class II prices.* Each handler shall pay, at the time and in the manner set forth in Sec. 944.8, for Class II milk, not less than the following prices:

(1) In the case of milk which complies with the Grade A milk quality requirements of the Milk Ordinance of the City of Davenport, Iowa, passed August 18, 1939, or of the Grade A Milk and Grade A Milk Products Law of the State of Illinois, passed July 19, 1939, and is disposed of as Class II milk, $1.80 per hundredweight.

(2) In the case of milk which does not comply with the Grade A milk quality requirements of the Milk Ordinance of the City of Davenport, Iowa, passed August 18, 1939, or of the Grade A Milk and Grade A Milk Products Law of the State of Illinois, passed July 19, 1939, and is disposed of as Class II milk, $1.50 per hundredweight.

(c) *Class III price.* Each handler shall pay, at the time and in the manner set forth in Sec. 944.8, for Class III milk, not less than: The price per hundredweight for milk of 3.5 percent butterfat content, computed pursuant to section 1 of article VI of the marketing agreement for evaporated milk, issued by the Secretary on May 31, 1935, or pursuant to any amendment issued thereto. In the event the said marketing agreement is suspended or terminated, the price for Class III milk shall be the price per hundredweight which results from the following calculation by the market administrator: multiply by 3.5 the average price per pound of 92-score butter at whoesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, add 20 percent thereof, and add 10 cents.

(d) *Class IV price.* Each handler shall pay, at the time and in the manner set forth in Sec. 944.8, for Class IV milk, not less than the price per hundredweight which results from the following calculation by the market administrator: multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received and add 10 percent thereof.

§ 944.5 *Reports of handlers*—(a) *Periodic reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) On or before the 5th day after the end of each delivery period (a) the receipts at each plant of milk from producers and new producers, (b) the receipts at each plant of milk from handlers, (c) the receipts at each plant of milk produced by him, if any, (d) the utilization of all receipts of milk for the delivery period, (e) the utilization of milk caused to be delivered to a plant from which no milk is disposed of in the marketing area, and (f) the name and address of each new producer.

(2) On or before the 5th day after the end of each delivery period, the receipts of milk at each plant obtained in accordance with the provisions of Sec. 944.8 (c), as follows: (a) the amount of such milk, (b) the date or dates upon which such milk was received during the delivery period, (c) the plant from which such milk was shipped, (d) the price per hundredweight paid or to be paid for such milk, (e) the utilization of such milk, and (f) such other information with respect thereto as the market administrator may request.

(b) *Reports as to producers.* Each handler shall report to the market administrator:

(1) Within 10 days after the market administrator's request with respect to any producer or new producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator, (a) the name and address, (b) the total pounds of milk received, (c) the average butterfat test of milk received, and (d) the number of days upon which milk was received.

(2) As soon as possible after first receiving milk from any producer (a) the name and address of such producer, (b) the date upon which such milk was first received, (c) the plant at which the milk of such producer was received, and (d) whether such producer is a new producer.

(c) *Reports of payments.* On or before the 20th day after the end of each delivery period, each handler shall report for such delivery period to the market administrator, in the manner prescribed by the market administrator, with respect to each producer and new producer, (a) his name, (b) his total deliveries of base milk and total deliveries of milk in excess of base milk, respectively, (c) the average butterfat content of his milk, (d) the total payment made to such producer or new producer showing the prices, deductions, and charges involved, and (e) such other information as the market administrator may request.

(d) *Verification of reports.* Each handler shall make available to the market administrator or his agent (a) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (b) those facilities which are necessary for the sampling, weighing, and testing of milk and for determining the utilization of milk by the handler.

§ 944.6 *Handlers who are also producers.* (a) With respect to each handler who is also a producer:

(1) The market administrator shall exclude from the computations made pursuant to Sec. 944.7 (a) the quantity of milk disposed of by such handler: *Provided,* That where any such handler has purchased or received milk from other producers the value of such milk purchased or received shall be computed under Sec. 944.7 (a) as follows: the quantity of such milk shall be ratably apportioned among such handler's total Class I, Class II, Class III, or Class IV milk (after excluding purchases or receipts, if any, from other handlers) and multiplied by the Class I, Class II, Class III, or Class IV prices, respectively.

(2) The market administrator, in computing the value of milk received by a handler operating a bottling or processing plant, shall consider as Class IV milk any milk or cream received in bulk from a handler who receives no milk from producers other than that of his own production. If such receiving handler has disposed of such milk or cream for other than Class IV purposes, the market administrator shall add to the total value

computed pursuant to Sec. 944.7 (a) the difference between (a) the value of such milk or cream at the Class IV price and (b) the value according to its actual usage.

§ 944.7 *Determination and notification of uniform prices to producers*—(a) *Computation of the value of milk for each handler.* For each delivery period the market administrator shall compute, subject to the provisions of Sec. 944.6 and Sec. 944.8 (e), the value of milk of producers and new producers disposed of by each handler by (a) multiplying the quantity of such milk in each class by the price applicable pursuant to Sec. 944.4, and (b) adding together the resulting values of each class.

(b) *Computation and announcement of the uniform price.* For each delivery period the market administrator shall compute and announce the uniform price per hundredweight of milk as follows:

(1) Combine into one total the respective values of milk computed pursuant to paragraph (a) of this section for each handler who made the reports to the market administrator prescribed by Sec. 944.5 and who made the payments prescribed by Sec. 944.8 (a) (4);

(2) Compute the total quantity of milk which represents the delivered bases of producers (excluding new producers) and which is included in the computations made pursuant to paragraph (a) of this section;

(3) Compute the total value of the milk (including all milk received from new producers) which is in excess of the delivered bases of producers determined pursuant to subparagraph (2) of this paragraph and which is included in the computations pursuant to paragraph (a) of this section, by multiplying such quantity of milk by the Class IV price;

(4) Compute the total value of the milk represented by the delivered bases of producers by subtracting the value obtained in subparagraph (3) of this paragraph from the value obtained in subparagraph (1) of this paragraph;

(5) Subtract from the value computed pursuant to subparagraph (4) of this paragraph an amount computed as follows: multiply by $0.30 the total hundredweight of base milk of producers who are qualified to receive payments pursuant to Sec. 944.8 (e) which was disposed of as Class I milk and Class II milk;

(6) Add to the value computed pursuant to subparagraph (5) of this paragraph an amount which will prorate any cash balance available from previous delivery periods pursuant to subparagraph (8) of this paragraph;

(7) Divide the value obtained in subparagraph (6) of this paragraph by the quantity of milk represented by the delivered bases of producers as determined in subparagraph (2) of this paragraph;

(8) Subtract from the figure obtained in subparagraph (7) of this paragraph not less than 4 cents nor more than 5 cents per hundredweight of milk for the purpose of retaining a cash balance to provide against errors in reports and payments, or delinquencies in payments by handlers. This result shall be known as the uniform price per hundredweight for such delivery period for base milk of producers containing 3.5 percent butterfat; and

(9) On or before the 10th day after the end of each delivery period notify all handlers, and make public announcement of these computations, of the uniform price per hundredweight of base milk computed pursuant to this paragraph, of the Class IV price, and of the differentials computed pursuant to paragraphs (d) and (e) of Sec. 944.8.

§ 944.8 *Payments for milk*—(a) *Time and method of payment.* On or before the 15th day after the end of each delivery period each handler shall make payment for milk, subject to the differentials provided in paragraphs (d) and (e) of this section as follows:

(1) To each producer, not less than the uniform price computed pursuant to Sec. 944.7 (b) for that quantity of milk received from such producer not in excess of such producer's base;

(2) To each producer, not less than the Class IV price for that quantity of milk received from such producer in excess of such producer's base; and

(3) To each new producer, the Class IV price for the total quantity of milk received from such new producer.

(4) To producers, through the market administrator, by paying to or receiving from the market administrator, as the case may be, the amount by which the payments required to be made pursuant to subparagraphs (1), (2), and (3) of this paragraph are less than or exceed the value of milk computed for such handler pursuant to Sec. 944.7 (a), as shown in a statement rendered by the market administrator on or before the 12th day after the end of such delivery period.

(b) *Additional payments.* Any handler may make payments to producers in addition to the payments made pursuant to subparagraphs (1) and (2) of paragraph (a) of this section: *Provided,* That such additional payments are made to all producers supplying such handler with milk of the same quality and grade.

(c) *Emergency milk.* During any period when the market administrator determines that the supply of milk received by any handler from producers, new producers, and handlers operating wholesale or retail milk distribution routes in the marketing area, is not sufficient to fulfill the Class I milk and Class II milk requirements of such handler, such handler, after giving notice to the market administrator of his intention to purchase milk from other than such sources, may secure milk from additional sources on terms and conditions other than those provided in this section. Such milk shall be reported to the market administrator by the receiving handler separately from milk received from producers, new producers, and handlers operating wholesale or retail milk distribution routes in the marketing area, in accordance with Sec. 944.5 (a) (2). Such milk shall be deducted from each class in the proportions that the quantity of milk disposed of by the receiving handler in each class during the delivery period bears to the total quantity of milk received by him during such delivery period. The person from whom the handler received such milk shall not be considered a handler with respect to milk disposed of in the marketing area under the circumstances described in this paragraph.

(d) *Butterfat differential.* If during the delivery period any handler has received from any producer or new producer milk having an average butterfat content other than 3.5 percent, such handler, in making the payments prescribed in subparagraphs (1), (2), and (3) of paragraph (a) of this section, shall add for each one-tenth of 1 percent of average butterfat content in milk above 3.5 percent not less than, or shall deduct for each one-tenth of 1 percent of average butterfat content in milk below 3.5 percent not more than, an amount equal to one-tenth the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received: *Provided,* That for any delivery period such amount shall not be less than 3 cents nor more than 4 cents per hundredweight.

(e) *Quality differentials.* In making payments, pursuant to paragraph (a) (1) of this section, to each producer from whom milk delivered in compliance with the Grade A milk quality requirements of the Milk Ordinance of the City of Davenport, Iowa, passed August 18, 1939, or of the Grade A Milk and Grade A Milk Products Law of the State of Illinois, passed July 19, 1939, has been received during the delivery period, each handler shall add to the uniform price for each such producer the amount per hundredweight resulting from the following computation by the market administrator: divide the amount subtracted in the computation of the uniform price, pursuant to Sec. 944.7 (b) (5), by the total hundredweight of base milk received during the delivery period from all such producers.

(f) *Determination of base.* (1) For each delivery period the base of each producer shall be a quantity of milk calculated in the following manner: (a) multiply the applicable figure, computed pursuant to subparagraph (2) of this paragraph, by the number of days on which milk was received from such producer during such delivery period.

(2) Effective January 1, 1940, and each subsequent year thereafter, the daily base of each producer for the ensuing year shall be determined by the market administrator from reports filed by handlers pursuant to Sec. 944.5 (b) (1) in the following manner:

(i) Determine for each producer that month during the preceding calendar year when his daily average deliveries of milk were the lowest. Determine the 3 months of the preceding calendar year when the daily average deliveries of milk of all producers were the lowest;

(ii) Determine for each producer his total deliveries of milk during each of the 4 months of the previous calendar year described in subdivision (i) of this subparagraph and add together the resulting amounts;

(iii) Divide the sum obtained for each producer in subdivision (ii) of this subparagraph by the number of days of such 4 calendar months;

(iv) Add together in one sum all the daily average amounts, computed in accordance with subdivision (iii) of this subparagraph;

(v) Determine the daily average utilization of Class I milk and Class II milk during the month of the preceding year when such utilization was greatest and add to such daily average an amount not to exceed 10 percent thereof;

(vi) Divide the amount determined pursuant to subdivision (v) of this subparagraph by the sum determined pursuant to subdivision (iv) of this subparagraph;

(vii) Multiply the daily average amount for each producer determined in subdivision (iii) of this subparagraph by the percentage figure computed pursuant to subdivision (vi) of this subparagraph. This result shall be known as the producer's allotted daily base.

(3) *Base rules.* The following rules shall be observed by the market administrator with respect to the administration of the base plan:

(i) Bases allotted to producers pursuant to subparagraph (2) of this paragraph shall not be transferable: *Provided,* That bases allotted under a tenant and landlord relationship shall be combined and may be divided only if such relationship is terminated;

(ii) As soon as bases are allotted to producers pursuant to subparagraph (2) of this paragraph, the market administrator shall notify each handler of the bases of producers from whom such handler received milk;

(iii) Any producer who ceases to market milk to a handler for a period of more than 45 consecutive days shall foreit his base. In the event that he thereafter commences to market milk to a handler he shall receive a base computed in the manner provided in subdivision (x) of this paragraph for the allotment of bases to producers who have been new producers, and shall be treated for the purposes of this section as if he had been a new producer;

(iv) In the event a producer delivers an average quantity of milk less than 85 percent of his allotted daily base for each of 3 consecutive calendar months, such producer shall be reallotted a base equal to his daily average deliveries of milk of his own production for the 3 consecutive months involved;

(v) A producer, whether landlord or tenant of a farm, may retain his base when moving his entire herd of cows from one farm to another farm: *Provided,* That at the beginning of a tenant and landlord relationship the allotted base of such tenant and landlord shall be a combined base;

(vi) A landlord who rents on shares shall be entitled to the entire base to the exclusion of the tenant, if the landlord owns the entire herd. Likewise, the tenant who rents on shares shall be entitled to the entire base to the exclusion of the landlord, if the tenant owns the entire herd. If the cattle are jointly owned by tenant and landlord, the base shall be divided between the joint owners according to the ownership of the cattle, if and when such joint owners terminate the tenant and landlord relationship;

(vii) The base of any producer shall be automatically canceled at the beginning of any delivery period during which such producer reports milk not produced by him as being milk of his own production for the purpose of mantaining or increasing his allotted base. Such producer shall be reallotted a base computed in the manner provided in subdivision (x) of this paragraph for the allotment of bases to producers who have been new producers, and shall be treated for the purposes of this section as if he had been a new producer;

(viii) Any producer, upon giving notice to the market administrator, may relinquish his base at the beginning of the delivery period following that during which notice is given. In the event the producer thereafter requests the market administrator to allot him a base, he shall be allotted a base in the manner provided in subdivision (x) of this paragraph for the allotment of bases to producers who have been new producers, and shall be treated for the purposes of this section as if he had been a new producer;

(ix) If a producer, who has notified the market administrator within 5 days prior to his participation, enters into a program of disease eradication supervised by either county, State, or Federal authorities, the market administrator, in making his determination of that month of the preceding year when such producer's daily average deliveries of milk were the lowest, pursuant to subdivision (i) of subparagraph (2) of this paragraph, shall disregard any month in which such disease eradication program was being performed.

(x) In the event of allotment of a base to a producer who has shipped milk as a new producer, the market administrator shall determine the daily average deliveries of milk by such producer for the first 2 full calendar months immediately preceding the time when such producer became a producer. Such daily average deliveries of milk shall be multiplied by the percentage that base deliveries were to total deliveries of milk to the market during such 2 calendar months by all base-holding producers on the market during that period.

(xi) In the case of a producer who distributes the milk he produces and who disposes of all or a part of his delivery routes to a handler, the market administrator shall determine a figure representing the average daily Class I milk and Class II milk produced, and disposed of during the previous 3 months on the delivery routes of such producer, which such producer and such handler jointly report as involved in the transaction, subject to verification by the market administrator. Any base so determined shall be effective from its determination until the end of the then current calendar year and thereafter shall be superseded by a figure determined pursuant to subparagraph (2) of this paragraph.

(g) *Errors in payments.* Whenever verification by the market administrator of the payment by a handler to any producer or new producer discloses payment to such producer or new producer of less than is required by this section, the handler shall make up such payment to the producer or new producer not later than the time of making payment to producers and new producers next following such disclosure.

§ 944.9 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler shall deduct an amount not exceeding 4 cents per hundredweight (the exact amount to be determined by the market administrator, subject to review by the Secretary) from the payments made to producers and new producers pursuant to Sec. 944.8 with respect to all milk received by such handler during each delivery period from producers and new producers, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from producers and new producers during the delivery period and to provide such producers and new producers with market information, such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative association.* In the case of producers and new producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922,

as amended, known as the "Capper-Volstead Act," is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers and new producers as may be authorized by such producers and new producers and, on or before the 15th day after the end of each delivery period, pay over such deductions to the association rendering such services of which such producers and new producers are members.

§ 944.10 *Expense of administration*—(a) *Payments by handlers.* As his pro-rata share of the expense of the administration hereof, each handler, on or before the 15th day after the end of each delivery period, shall pay to the market administrator a sum not exceeding 2 cents per hundredweight with respect to all milk received during such delivery period from producers and new producers and produced by such handler, the exact sum to be determined by the market administrator subject to review by the Secretary: *Provided,* That each handler which is a cooperative association shall pay such pro-rata share of expense of administration on only that milk of producers and new producers received by such association or caused to be delivered by such association to a plant from which no milk is disposed of in the marketing area.

(b) *Suits by market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's pro-rata share of expense set forth in this section.

§ 944.11 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to paragraph (b) of this section.

(b) *Suspension and termination.* Any or all provisions hereof, or any amendment hereto, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handlers, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The market administrator, or such other person as the Secretary may designate (1) shall continue in such capacity until discharged by the Secretary, (2) from time to time account for all receipts and disbursements and, if so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant hereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 944.12 *Liability*—(a) *Handlers.* The liability of the handlers hereunder is several and not joint, and no handler shall be liable for the default of any other handler.

Now, therefore, Grover B. Hill, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, hereby executes and issues in duplicate this order, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 10th day of January, 1940, and declares this order to be effective on and after the 1st day of February 1940.

[SEAL] GROVER B. HILL,
Acting Secretary of Agriculture.

[F. R. Doc. 40–171; Filed, January 10, 1940; 4:04 p. m.]

QUAD CITIES SALES AREA

ORDER SUSPENDING THE LICENSE FOR MILK

Whereas, R. G. Tugwell, Acting Secretary of Agriculture, pursuant to the provisions of Public Act No. 10, 73d Congress, as amended, issued, effective June 1, 1934, a license for milk—Quad Cities Sales Area, which license was subsequently amended, effective September 1, 1934, October 22, 1934, and February 26, 1935;

Whereas, the Secretary of Agriculture has determined to suspend said license, as amended;

Now, therefore, Grover B. Hill, Acting Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby suspends the license for milk—Quad Cities Sales Area, as amended, said suspension to become effective on and after 11:59 p. m., c. s. t., January 31, 1940.

Done at Washington, D. C., this 10th day of January 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,
Acting Secretary of Agriculture.

[F. R. Doc. 40–169; Filed, January 10, 1940; 4:04 p. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER I—BUREAU OF ANIMAL INDUSTRY

[B.A.I. Administrative Notice 2]

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

§ 18.10[1] *Coloring matters permitted in meat and meat food products; methods of application.* (a) The following dyes may be used in official establishments for mixing with prepared fats or application to sausage casings, subject to sampling for laboratory examination and approval at the discretion of the inspector in charge:

(1) The natural coloring matters alkanet, annatto, carotene, and cochineal.

(2) Coal tar dyes as follows, subject also to certification by the manufacturer and the furnishing of authoritative evidence to the inspector in charge that the dyes have been certified by the United States Department of Agriculture under the Federal Food, Drug, and Cosmetic Act, approved June 25, 1938, for use in connection with foods:

NAME AND FORMER NAME

FD&C Blue No. 1—Brilliant Blue FCF.
FD&C Blue No. 2—Indigotine.
FD&C Green No. 1—Guinea Green B.
FD&C Green No. 2—Light Green SF Yellowish.
FD&C Green No. 3—Fast Green FCF.
FD&C Orange No. 1—Orange 1.

[1] The numbering of the sections of B.A.I. Administrative Notices conforms to the numbering of title 9, chapter I, of The Code of Federal Regulations.

FD&C Orange No. 2—Orange SS.
FD&C Red No. 1—Ponceau 3R.
FD&C Red No. 2—Amaranth.
FD&C Red No. 3—Erythrosine.
FD&C Red No. 4—Ponceau SX.
FD&C Red No. 32.
FD&C Yellow No. 1—Naphthol Yellow S.
FD&C Yellow No. 2—Naphthol Yellow S-Potassium salt.
FD&C Yellow No. 3—Yellow AB.
FD&C Yellow No. 4—Yellow OB.
FD&C Yellow No. 5—Tartrazine.
FD&C Yellow No. 6—Sunset Yellow FCF.

(3) Mixture of two or more dyes mentioned in paragraphs (1) and (2), or a mixture of one or more of the dyes with harmless inert materials, such as common salt or sugar.

(b) Provided the dyes do not penetrate into the product, sausage and other meat food product in animal or hydrocellulose casings may be colored artificially by dipping, spraying, or cooking the product in a solution of approved dye.

When penetration of the dye is observed, all dyed portions of the overtreated product shall be removed and condemned, after which the uncolored portions, if otherwise acceptable, may be reworked. No greater tolerance for penetration shall be allowed for product in hydrocellulose casings than for product in animal casings. The presence of a visible ring of dyed product appearing when links or pieces of the colored product are cut or broken is evidence of penetration.

This notice, which is based on B. A. I. Order 211 (revised), regulation 18, section 6, paragraph 3,[2] as amended by amendment 7, dated July 25, 1933, shall be effective on February 1, 1940. It supersedes the following notices in Service and Regulatory Announcements and will appear in an early issue of that publication:

"Permitted Coloring Substances," June 1919, page 61.
"Addition to List of Permitted Colors," October 1922, page 114.
"Coloring Sausage Casings by Cooking in Lieu of Dipping," January 1923, page 2.[3]
"Addition to List of Permitted Dyes," April 1927, page 27.
"Addition to List of Permitted Dyes," March 1929, page 26.
"Addition to List of Permitted Dyes," August 1929, page 71.

It also supersedes Circular Letter 1493, dated September 22, 1927.

All dyes on hand which meet previous requirements may continue to be used until exhausted but not beyond April 30, 1940.

[SEAL] J. R. MOHLER,
Chief of Bureau.

[F. R. Doc. 40–188; Filed, January 11, 1940; 12:17 p. m.]

[2] 9 CFR 18.6 (c).
[3] Now designated as 9 CFR 18.10.

TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER VII—PERSONNEL

PART 73—APPOINTMENT OF COMMISSIONED OFFICERS AND CHAPLAINS

APPOINTMENT IN MEDICAL, DENTAL, VETERINARY, AND MEDICAL ADMINISTRATIVE CORPS, REGULAR ARMY [1]

§ 73.1 *General procedure.* (a) Appointees to fill vacancies occurring in the Medical, Dental, Veterinary, or Medical Administrative Corps will be selected for each corps by competitive examination, provided that medical internes who have completed a year's internship in an Army hospital, and who are found qualified by a board as provided in paragraph 1a and recommended for commission by the commanding officer of the hospital, and who are otherwise qualified, may be appointed without competitive examination upon the recommendation of The Surgeon General with the approval of the Secretary of War.

* * * * *

(Sec. 4, 35 Stat. 67; 10 U.S.C. 93; sec. 24, 41 Stat. 774; 10 U.S.C. 92, 122, 123; 40 Stat. 397; 10 U.S.C. 125; sec. 4, 49 Stat. 506; 10 U.S.C. 522b; 49 Stat. 1902; 10 U.S.C. 151) [Par. 2, A.R. 605–20, W.D., Aug. 16, 1939, as amended by Cir. No. 1, W.D., Jan. 2, 1940]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 40–174; Filed, January 11, 1940; 10:39 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 3d day of January, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[File No. 21–350]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE CURLED HAIR INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been held [2] under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I, as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of January 12, 1940.

[1] These regulations amend section 73.1, Chapter VII, Title 10, CFR.
[2] 4 F.R. 3833 DI.

Statement by the Commission

Trade practice rules for the Curled Hair Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under its trade practice conference procedure.

The purpose of the rules is to protect industry, trade, and the purchasing public from unfair trade practices in respect to curled hair and curled hair mixtures in the several forms and products in which it is used and passed through the channels of distribution and trade to users, re-sellers, and ultimate consumers.

The curled hair used in the industry consists, mainly, of horse mane, horse tail, cattle tail and hog hair. Two or more different kinds of hair are frequently mixed or blended together, and sometimes vegetable fiber, such as sisal, kapok, tampico, or other fiber, is also mixed with the hair. After processing, mixing and curling, the hair, or hair and fiber, is sold in bulk, interlaced on burlap, or in molded form, for use by manufacturers and others as filling, stuffing or padding material, chiefly in mattresses and upholstered furniture. Such manufactured articles containing curled hair are marketed by their manufacturers, and by distributors and dealers, to the general public, and thus the curled hair product of the industry reaches and is used by ultimate purchasers or consumers mainly as constituent parts of filled, stuffed or padded merchandise.

In the main, the cattle and hog hair used by the industry is of domestic production, whereas horse mane and horse tail are imported and come chiefly from South America. According to information furnished the Commission, the volume of initial sales in the industry totals about 8,000,000 pounds annually, valued at approximately $3,000,000.

The proceeding for the establishment of trade practice rules was instituted upon application of the industry. In the course thereof a draft of rules as proposed for the industry was made available upon public notice issued by the Commission to all interested or affected parties, whereby they were afforded opportunity to present their views to the Commission, including such pertinent information, suggestions or objections as they desired to submit, and to be heard in the premises. Accordingly, public hearing pursuant to such notice was held in Washington, D. C., and all matters presented at the hearing, or otherwise submitted, were duly received and considered.

Thereafter, and upon consideration of the entire proceeding, the rules appearing herein under Group I were given final approval by the Commission and are promulgated as follows:

The Rules

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public.

They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

Unfair trade practices which are embraced in these Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation or other organization subject to its jurisdiction, of such unlawful practices in or directly affecting interstate commerce.

(§ 143.1) RULE 1. *Misbranding.* The false or deceptive marking or branding of products of the industry with respect to the grade, quality, quantity, use, size, material, content, substance, new or secondhand condition, origin, preparation, manufacture or distribution of such products, or in any other material respect, is an unfair trade practice.

(§ 143.2) RULE 2. *Misrepresentation of industry products.* It is an unfair trade practice to make or publish, or cause to be made or published, directly or indirectly, any false, misleading or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, use, size, material, content, substance, origin, new or secondhand condition, preparation, manufacture or distribution of any product of the industry, or in any other material respect.

(§ 143.3) RULE 3. *Deceptive nondisclosure*—(a) *Nondisclosure of secondhand hair or fiber.* To sell or offer for sale any industry product containing, in whole or in part, any hair or fiber which has previously been used in any article or for any purpose, without making full and nondeceptive disclosure in selling literature, tags or labels, and in invoices, of the fact that such hair or fiber is secondhand or used, is an unfair trade practice.

(b) *Nondisclosure of kind of hair.* To the end that purchasers may be correctly informed and that unfair methods of competition and unfair or deceptive acts or practices may be avoided and prevented in the sale or offering for sale of curled hair or curled hair products, full and nondeceptive disclosure should be made by members of the industry in selling literature, tags or labels, and in invoices, of the kind of hair contained in said merchandise sold or offered for sale by them, whether horse tail, cattle tail, horse mane, hog, or other kind of hair, together with the proportion of each kind of hair contained therein; and it is an unfair trade practice to fail or refuse to make such disclosure to purchasers where such nondisclosure or the concealment of the kind of hair contained in the product is practiced by the seller with the tendency and capacity or effect of thereby misleading or deceiving purchasers or the consuming public.

(c) *Nondisclosure of vegetable fiber, etc.* The concealment of, or the failure to disclose, the kind and proportion of any vegetable fiber or material other than hair contained in any curled hair or purported curled hair product sold by members of the industry, with the tendency and capacity or effect of thereby misleading or deceiving purchasers or the consuming public, is also an unfair trade practice.

(§ 143.4) RULE 4. *Misuse of the term "hair", etc.* The use of the word "hair" to describe any industry product consisting of hair mixed with sisal, tampico, kapok, or other vegetable fibers, without disclosure of the proportion and kind of hair and of vegetable fibers present in the product, with the tendency and capacity or effect of misleading or deceiving the purchasing or consuming public, or the use of the term "hair" or word, term or representation of similar import in any false, misleading or deceptive manner whatsoever, is an unfair trade practice.

(§ 143.5) RULE 5. *Substitution of products.* The practice of shipping or delivering products which do not conform to samples submitted, to specifications upon which the sale is consummated, or to representations made prior to securing the order, without the consent of the purchasers to such substitutions and with the tendency and capacity or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice.

(§ 143.6) RULE 6. *False invoicing.* Withholding from or inserting in an invoice, billing or statement any material information by reason of which omission or insertion a false record is made, wholly or in part, of the transaction which such invoice or billing or statement purports to represent, with the effect of thereby misleading or deceiving the purchasing or consuming public, is an unfair trade practice.

(§ 143.7) RULE 7. *Imitation or simulation of trade-marks, trade names, etc.* The imitation or simulation of the trademarks, trade names, labels or brands of competitors, with the tendency and capacity or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice.

(§ 143.8) RULE 8. *Commercial bribery.* It is an unfair trade practice for a member of the industry directly or indirectly to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees or representatives of customers or prospective customers, or to agents, employees or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors.

(§ 143.9) RULE 9. *Defamation of competitors or disparagement of their products.* The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies or services, is an unfair trade practice.

(§ 143.10) RULE 10. *Inducing breach of contract.* Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

(§ 143.11) RULE 11. (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[2] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[2] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the

[2] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That this shall not apply to the Philippine Islands.

benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce [3] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce [2] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce [2] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this Rule 11.

(f) *Purchases by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operating for profit.* The foregoing provisions of this Rule 11 relate to practices within the purview of the Robinson-Patman Antidiscrimination Act, which Act and the application thereunder of this Rule 11 are subject to the limitations expressed in the amendment to such Robinson-Patman Antidiscrimination Act, which amendment was approved May 26, 1938, and reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing in the Act approved June 19, 1936 (Public, Numbered 692, Seventy-Fourth Congress, second session), known as the Robinson-Patman Antidiscrimination Act, shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit. (52 Stat. 446; Supp. 4 U.S.C. Title 15, Sec. 13c)

Promulgated and issued by the Federal Trade Commission as of January 12, 1940.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40–172; Filed, January 10, 1940; 4:05 p. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT OF REGULATION X–14

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors and necessary for the execution of the functions vested in it so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 14 (a) and 23 (a) thereof [C. 404, sec. 14, 48 Stat. 895; 15 U.S.C. 78n: C. 404, sec. 23, 48 Stat. 901; C. 462, sec. 8, 49 Stat. 1379; 15 U.S.C. 78w and Sup. III], hereby takes the following action:

Regulation X–14,[1] as at present in effect, is amended in the following respects:

I. Paragraph (a) of Rule X–14A–1 [Sec. 240.X–14A–1] is amended by deleting therefrom the language "Except as to item 1 (a) of Schedule 14A," and the language "or the answer to which is in the negative.", so that, with the change of the comma after the word "inapplicable" into a period, the paragraph as amended will read as follows:

(a) No statement need be made in the proxy statement in response to any item or sub-item of Schedule 14A which is inapplicable. None of the items need be restated in the proxy statement, and the order of the items and sub-items in the schedule need not be followed. Information required by more than one applicable item need not be repeated in the proxy statement.

II. Rule X–14A–2 [Sec. 240.X–14A–2] is amended by substituting the language "elections to office" for the language "the election of directors or other officials" in the first sentence and the language "elections to office:" for the language "elections of directors or other officials." in the second sentence and by adding a proviso, so that the rule as amended will read as follows:

No solicitation subject to Section 14 (a) [2] of the Act shall be made unless (a) means shall have been provided whereby the person solicited is afforded an opportunity to specify, in a space provided in the form of proxy or otherwise, the action which such person desires to be taken pursuant to the proxy on each matter, or each group of related matters as a whole, described in the proxy statement as intended to be acted upon, other than elections to office, and (b) the authority conferred as to each such matter or group of matters is limited by the specification so made. Nothing in Regulation X–14 shall prevent the solicitation of a proxy conferring discretionary authority with respect to matters as to which the person solicited does not make the specification provided for above, or with respect to matters not known or determined at the time of the solicitation, or with respect to elections to office: *Provided, however,* That no authority shall be sought to vote the proxy upon the election of any person to any office (inclusive of that of auditors and member of a committee to select auditors) for which a bona fide nominee is not named in the proxy statement.

III. Rule X–14A–4 [Sec. 240.X–14A–4] is amended throughout by substituting therefor the following:

§ 240.X–14A–4 (Rule X–14A–4) *Duty to file material with Commission and Ex-*

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[1] 3 F.R. 1991 DI, appearing under Title 45, under the former system of Code titles.

[2] C. 404, sec. 14, 48 Stat. 895; 15 U.S.C. 78n.

[3] See footnote on page 173.

change. (a) No solicitation subject to Section 14 (a)[2] of the Act shall be made unless copies of the following material shall have been filed or mailed, in accordance with the provisions of paragraphs (b), (c) and (d), with or to the Commission, at its office in Washington, D. C., and with or to each national securities exchange upon which is listed any security in respect of which the solicitation is made—

(1) The proxy statement, the form of proxy, and any additional material intended to be furnished to security holders concurrently with the proxy statement.

(2) Any additional material relating to the same meeting or subject matter furnished to security holders subsequent to the furnishing of the proxy statement, exclusive of replies to inquiries from security holders requesting further information upon any aspect of the solicitation.

(3) Any document to which reference is made pursuant to Rule X–14A–1 (c) [Sec. 240.X–14A–1 (c)] which has not been previously filed with the Commission and the appropriate exchange or exchanges.

(b) Three copies of the material described in paragraph (a) (1) and (a) (3), the copies of the material described in paragraph (a) (1) to be preliminary copies for the information of the Commission only and so marked, shall be filed with the Commission not later than ten days prior to the date definitive copies of the material described in paragraph (a) (1) are first sent or given to any security holders, or, in respect of all or any part of the material described in paragraphs (a) (1) and (a) (3), not later than such lesser number of days prior to such date as the Commission, upon a showing of unusual circumstances, may determine: *Provided, however,* That the provisions of this paragraph shall not apply to material additional to the proxy statement and form of proxy intended to be furnished to security holders concurrently with the proxy statement.

(c) Three copies of the material described in paragraph (a) (1) or of any revision of such material, in the form in which such material is released to security holders, shall be filed with or mailed to the Commission, and with or to the appropriate exchange or exchanges, not later than the date such material is first sent or given to any security holders; and three copies of the material described in paragraph (a) (2), in the form in which it is released to security holders, shall be similarly filed or mailed. Three copies of the material described in paragraph (a) (3) shall be filed with or mailed to the appropriate exchange or exchanges not later than the date the material described in paragraph (a) (1) is first sent or given to any security holders.

(d) The material described in paragraphs (a) (1) and (a) (2), as transmitted to the Commission, whether in preliminary or definitive form, shall be accompanied by a statement indicative of the date upon which copies thereof are intended to be or are being released to security holders.

IV. Rule X–14A–5 [Sec. 240.X–14A–5] is amended by inserting before the period at the end thereof the language "or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading", so that the rule as amended will read as follows:

§ 240.X–14A–5 (Rule X–14A–5) *False or misleading statements.* No solicitation subject to Section 14 (a)[2] of the Act shall be made by means of any form of proxy, notice of meeting, or other communication containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

V. Rule X–14A–8 [Sec. 240.X–14A–8] is amended by the deletion thereof and the substitution therefor of the provisions of Rule X–14A–9 [Sec. 240.X–14A–9], which thereby becomes Rule X–14A–8 [Sec. 240.X–14A–8].

VI. Paragraph (b) of Rule X–14A–9 [Sec. 240.X–14A–9], as amended to become Rule X–14A–8 [Sec. 240.X–14A–8], is amended throughout by substituting therefor the following:

(b) The term "solicitation" includes (1) any request for a proxy, whether or not such request is accompanied by or included in a form of proxy, and (2) the furnishing of a form of proxy to security holders under circumstances reasonably calculated to result in a procurement of proxies: *Provided, however,* That the term does not apply to the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, and does not apply to the performance by the issuer of acts required by Rule X–14A–6 [Sec. 240.X–14A–6] or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

VII. Rule X–14A–9 [Sec. 240.X–14A–9], as amended to become Rule X–14A–8 [Sec. 240.X–14A–8], is further amended by the addition of three new paragraphs to read as follows:

(g) The term "officer" means a chairman of the board of directors, president, vice president, treasurer, secretary, comptroller and any other person performing similar functions.

(h) The phrase "the persons making the solicitation", used in relation to a solicitation by the management of the issuer, means the directors and officers of the issuer, exclusive of any directors or officers who are opposed to the solicitation.

(i) The phrase "matters to be acted upon pursuant to the proxy", used in relation to a proxy other than one which designates an agent or agents to cast a vote or votes in a meeting of security holders, means the matters in respect of which the proxy is solicited. Employed in relation to a proxy to be used at a meeting of security holders, the phrase means the matters which the persons making the solicitation intend to present and any matters which the persons making the solicitation are informed other persons intend to present for action at such meeting, in the event the persons making the solicitation intend that the proxy shall be used for purposes of a vote upon such matters or for purposes of a quorum supporting such a vote: *Provided, however,* that the phrase as so employed does not apply to the matter of an election to any office which the persons making the solicitation are informed other persons intend to present for action at such meeting if the persons making the solicitation are themselves proposing the election of a nominee to such office and are including in the proxy statement the information regarding the candidacy of such nominee which is required by Schedule 14A.

VIII. Item 3 of Schedule 14A is amended throughout by substituting therefor the following:

B. Costs and Methods of Solicitation

ITEM 3. (a) State the names of the persons by whom, directly or indirectly, the cost of any preparing, assembling or mailing of the material described in paragraphs (a) (1) and (a) (2) of Rule X–14A–4 [Sec. 240.X–14A–4] has been or is to be borne.

(b) If solicitations of the proxy are to be made otherwise than by use of the mails, state, or describe briefly, (1) the character of such solicitations, (2) the cost or anticipated cost thereof and the material features of the arrangement, if any, pursuant to which payment therefor has been or is to be made, (3) the names of the persons by whom such cost has been or is to be borne, directly or indirectly, and (4) the extent to which, and the type of activity for which, regular or specially engaged employees of the issuer or of any other persons (naming such other persons) are to be used in connection with such solicitations.

IX. Paragraph (b) of Item 5 of Schedule 14A is amended by adding thereto a new sentence, so that the paragraph as amended will read as follows:

(b) State, as of the most recent date practicable, the approximate aggregate amount of each class of securities of the issuer owned of record or beneficially by

all persons named in (a) and their associates. If any of the persons named in (a) are not the beneficial owners of any securities of the issuer, a statement to that effect as to such persons shall be made.

X. Item 6 of Schedule 14A is amended throughout by substituting therefor the following:

ITEM 6. (a) If action is to be taken with respect to the *election of directors or other officials* (other than inspectors of election and similar officials)—

(1) Name the offices to be filled by election.

(2) Furnish the following information as to each person (hereinafter called "nominee") for whom it is intended that a vote will be cast for election to any such office pursuant to the proxy:

(A) If the nominee received, in all his capacities, one of the three highest aggregate amounts of remuneration paid by the issuer and any subsidiaries of the issuer (directly, or indirectly through any affiliate of the issuer or otherwise) to any director, officer or employee of the issuer during the last fiscal year of the issuer, state the amount of such remuneration. The information should be given on an accrual basis if practicable. Insofar as such information relates to securities, options to purchase securities, or other property given for services, or to options to purchase securities, given for services, which were exercised or sold by the grantee during the last fiscal year of the issuer, or to remuneration paid to partnerships in which the nominee participated as a member of the partnership, it shall be stated separately.

(B) State, as of the most recent practicable date, the approximate amount of each class of securities of the issuer of which the nominee is directly or indirectly the beneficial owner. If the nominee is not the beneficial owner of any securities of the issuer, make a statement to that effect.

(C) Describe briefly any substantial interest, direct or indirect, of the nominee, and any associates of the nominee, in any property acquired within 2 years or proposed to be acquired by the issuer or any of its subsidiaries, other than property acquired in the ordinary course of business or on the basis of bona fide competitive bidding. State the cost of the property to the issuer or subsidiary and the cost to the vendor if the property was acquired by the vendor within 2 years prior to the acquisition by the issuer or subsidiary.

(D) If, combining securities held of record but not owned beneficially and securities owned beneficially whether or not held of record, more than 10% of the outstanding voting securities of the issuer, or more than 10% of any class of securities of the issuer not entitled to vote, are held by the nominee and any associates of the nominee, state, as of the most recent practicable date, the approximate aggregate amount of each class of securities of the issuer held by the nominee and such associates and name each associate whose holdings in such class constitute a substantial portion of such aggregate amount. If desired, the character of the interest of the nominee or any associate in the securities of the issuer stated pursuant to this paragraph may be set forth.

(E) If the nominee is a director, officer, partner or employee of any principal underwriter of securities of the issuer or any subsidiary or predecessor of the issuer which have been sold within five years by the issuer, such subsidiary or predecessor, or by any affiliate of the issuer, such subsidiary or predecessor, or if the nominee is directly or indirectly the beneficial owner of more than 10% of any class of equity securities of any such underwriter, make a statement to that effect, naming the underwriter and stating, as of the most recent practicable date, the approximate amount of each class of securities of the issuer of which such underwriter is directly or indirectly the beneficial owner and the approximate amount of each class of any securities of the issuer which are otherwise held by such underwriter.

(F) If the candidacy of the nominee, for election or reelection to office as the case may be, is the subject of an arrangement or understanding (inclusive of any arrangement or understanding continuing in effect from a time past) directly or indirectly between any of the persons making the solicitation or the nominee and any other person or persons except directors and officers of the issuer acting solely in that capacity, make a statement to that effect, naming each such other person and stating, as of the most recent practicable date, the approximate amount of each class of sewhich are otherwise held by such person is directly or indirectly the beneficial owner and the approximate amount of each class of any securities of the issuer which are otherwise held by such person: *Provided, however,* That if such person be a person having a managerial contract with the issuer there shall also be stated, on an accrual basis if practicable, the aggregate amount of remuneration paid by the issuer and any subsidiaries of the issuer (directly, or indirectly through any affiliate of the issuer or otherwise) to such person in all capacities during the last fiscal year of the issuer: *Provided further,* That if such person be a committee representing security holders of the issuer, there shall be stated the approximate amount of each class of securities of the issuer of which each member of the committee is directly or indirectly the beneficial owner and the approximate amount of each class of such securities represented by the committee.

(3) State the aggregate amount of remuneration paid, during the last fiscal year of the issuer, by the issuer and any subsidiaries of the issuer (directly, or indirectly through any affiliate of the issuer or otherwise) to the directors and officers of the issuer, considered as a group, and to any person having a managerial contract with the issuer, for services in all capacities. The information should be given on an accrual basis if practicable. Insofar as such information relates to securities, options to purchase securities, or other property given for services, or to options to purchase securities, given for services, which were exercised or sold by the grantees during the last fiscal year of the issuer, or to remuneration paid to partnerships in which directors or officers of the issuer participated as members of the partnership, it shall be stated separately.

(b) If action is to be taken with respect to the *election of auditors, or* if it is proposed that particular auditors shall be recommended for selection by any *committee to select auditors* for which votes pursuant to the proxy are to be cast—

(1) Name the auditors.

(2) Describe briefly any material relationship of such auditors and any associates of such auditors to the issuer and any affiliates of the issuer.

(3) State, or describe briefly, (A) the name of each nominee for any committee to select auditors for which votes pursuant to the proxy are to be cast, (B) the office, if any, which such nominee holds with the issuer, (C) the approximate amount, as of the most recent practicable date, of each class of securities of the issuer of which such nominee is directly or indirectly the beneficial owner, and (D) any other relationship of such nominee, or any relationship of any associate of such nominee, to the issuer and any affiliates of the issuer which is of a material character. If the nominee is not the beneficial owner of any securities of the issuer, make a statement to that effect.

XI. Paragraph (B) (2) of Item 7 of Schedule 14A is amended throughout by substituting therefor the following:

(2) State the aggregate amount of remuneration paid by the issuer and any subsidiaries of the issuer (directly, or indirectly through any affiliate of the issuer or otherwise) to such director or officer in all capacities during the last fiscal year of the issuer. The information should be given on an accrual basis if practicable. Insofar as such information relates to securities, options to purchase securities, or other property given for services, or to options to purchase securities, given for services, which were exercised or sold by the grantee during the last fiscal year of the issuer, or to remuneration paid to partnerships in which such director or officer par-

ticipated as a member of the partnership, it shall be stated separately.

XII. Item 13 of Schedule 14A is reclassified as Item 14 and a new item, designated Item 13, is added to the Schedule, to read as follows:

ITEM 13. If action is to be taken with respect to the *restatement of any asset, capital or surplus account of the issuer*—

(a) State the nature of the restatement and the date as of which it is to be effective.

(b) Summarize briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account (including any reserve accounts) affected by the restatement and the effect of the restatement thereon.

(d) To the extent reasonably practicable, state whether and the extent, if any, to which, by creation of additional surplus or elimination of charges against income, the restatement will as of the date thereof or in the future make available for distribution to the holders of equity securities of any class funds from the treasury of the issuer which could not otherwise be used for such purpose.

XIII. Item 14 of Schedule 14A is reclassified as Item 15 and amended by substituting the language "items 6 to 13" for the language "items 6 to 12", so that the item as amended will read as follows:

ITEM 15. If action is to be taken with respect to *any matter not specifically referred to above*—

(a) Describe briefly the substance of each such matter in substantially the same degree of detail as is required under items 6 to 13.

XIV. Schedule 14A is amended by the addition thereto of a new subdivision and item thereunder to read as follows:

E. Matters to be Presented to any Meeting of Security Holders at Which Action Pursuant to the Proxy is to be Taken but Which are not to be Acted upon Pursuant to the Proxy.

ITEM 16. If the persons making the solicitation are informed that any other person intends to present any matter for action at any meeting of security holders at which action pursuant to the proxy is to be taken, and if the persons making the solicitation intend that such matter shall not be acted upon pursuant to the proxy, make a statement to that effect, identifying the matter and indicating the disposition proposed to be made thereof at the meeting in the event the disposition thereof is within the control of the persons making the solicitation.

The foregoing action of the Commission shall be effective on February 15, 1940, except that compliance with Regulation X–14 as at present in effect shall be sufficient, and compliance with such regulation as hereby amended shall not be required, in the case of solicitations made after February 15, 1940, for any meeting or regarding any subject matter as to which solicitations were begun prior to such date.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–186; Filed, January 11, 1940; 12:00 m.]

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—GENERAL RULES AND REGULATIONS

The Commission on January 9, 1940, effective immediately, amended Appendix "B"[1] in part to read as follows:

* * * * *

2224	Government
2226	Forestry
2228	Government

* * * * *

2272	Government
2274	Ship telegraph & coastal telegraph
2276	Government

* * * * *

(Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i)—Sec. 303 (c), 48 Stat. 1082; 47 U.S.C. 303 (c))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40–175; Filed, January 11, 1940; 10:42 a. m.]

PART 7—RULES GOVERNING COASTAL AND MARINE RELAY SERVICES

The Commission on January 9, 1940, effective immediately, amended Section 7.58 (a)[2] by adding 2274 [4a] kilocycles and the following footnote:

[4a] Available for use only on the Great Lakes or on inland waters subject to the condition that no interference is caused to Canadian stations.

The following footnote relative to 3120 kilocycles was also added:

[4b] Not available for coastal telegraph stations on and after July 1, 1940.

(Sec. 4 (i). 48 Stat. 1066; 47 U.S.C. 154 (i)—Sec. 303 (c), 48 Stat. 1082; 47 U.S.C. 303 (c))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40–176; Filed, January 11, 1940; 10:42 a. m.]

PART 8.—RULES GOVERNING SHIP SERVICE

The Commission on January 9, 1940, effective immediately, amended Section 8.81 (a)[1] by adding 2274 [10a] kilocycles, and the following footnote:

[10a] Available for use only on the Great Lakes or on inland waters subject to the condition that no interference is caused to Canadian stations.

The Commission also amended, effective immediately, Section 8.81 (e) to read as follows:

To ship telegraph stations for communication primarily with other ship telegraph stations:

2274 [10a]	
3115 [13]	35860
3120 [13a]	37660

[13] Not available for use on the Great Lakes or on inland waters.

[13a] Not available for use on the Great Lakes or on inland waters on and after July 1, 1940.

(Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i)—Sec. 303 (c), 48 Stat. 1082; 47 U.S.C. 303 (c))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40–177; Filed, January 11, 1940; 10:42 a. m.]

PART 10—RULES GOVERNING EMERGENCY RADIO SERVICES

The Commission on January 9, 1940, effective immediately, amended Section 10.47,[3] in the following particulars:

(b) Maximum power [7] 50 watts:

2212 [4] 2236 [4] 2244 [4]

(c) Maximum power [7] 500 watts:

2226 [4]

[4] Subject to the condition that no interference is caused to Canadian stations.

[7] See Sections 2.17 to 2.21, 2.79 and 2.80 of Part 2, General Rules and Regulations. (4 F.R. 2104 DI, and parallel reference table at 4 F.R. 3525 DI.)

The Commission modified Section 10.252,[3] effective immediately, to read:

Modulation. The transmitters of forestry stations shall be modulated not less than 85 percent, nor more than 100 percent on peaks when using amplitude modulation. (Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40–178; Filed, January 11, 1940; 10:43 a. m.]

Notices

WAR DEPARTMENT.

EXAMINATION FOR APPOINTMENT IN THE MEDICAL CORPS, REGULAR ARMY

1. An examination of applicants for appointment as first lieutenants, Medical

[1] 4 F.R. 2109 DI.
[2] 4 F.R. 3423, 4246 DI.
[1] 4 F.R. 3460 DI.
[2] 3 F.R. 1736 DI (appears as § 111.26).
[3] 3 F.R. 1738 DI (appears as § 118.02).

Corps, Regular Army, under the provisions of A.R. 605–20, August 16, 1939; will be held within the continental limits of the United States, March 18 to March 22, 1940, inclusive.

2. Applications and requests for information concerning this examination should be addressed to The Adjutant General.

3. Applications received after March 2, 1940, will not be considered. (Sec. 4, 35 Stat. 67; 10 U.S.C. 93; sec. 24, 41 Stat. 774; 10 U.S.C. 92) [Sec. IV, Cir. No. 1, W.D., Jan. 2, 1940]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 40–173; Filed, January 11, 1940; 10:39 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 330–FD]

IN THE MATTER OF THE APPLICATION OF HAMILTON-TRENNER COAL COMPANY FOR EXEMPTION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

Upon the request of the applicant, the Director consents to the withdrawal of the application of the above-named applicant upon the condition that the withdrawal of said application shall constitute a waiver of any exemption which may otherwise become effective during the pendency of a subsequent application, except upon a showing of a material change of facts, and to that effect.

It is so ordered.

Dated January 10, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–189; Filed, January 11, 1940; 12:19 p. m.]

[Docket No. 562–FD]

IN THE MATTER OF THE APPLICATION OF WALTER ROHRIG FOR EXEMPTION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

Upon the request of the applicant, the Director consents to the withdrawal of the application of the above named applicant upon the condition that the withdrawal of said application shall constitute a waiver of any exemption which may otherwise become effective during the pendency of a subsequent showing of a material change of facts, and to that effect.

It is so ordered.

Dated: January 10, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–190; Filed, January 11, 1940; 12:19 p. m.]

[Docket No. 1108–FD]

IN THE MATTER OF THE APPLICATION OF HENRY L. MASON FOR EXEMPTION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

Upon the request of the applicant, the Director consents to the withdrawal of the application of the above named applicant, upon the condition that the withdrawal of said application shall constitute a waiver of any exemption which may otherwise become effective during the pendency of a subsequent application, except upon a showing of a material change of facts, and to that effect

It is so ordered.

Dated: January 10, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–191; Filed, January 11, 1940; 12:19 p. m.]

[Docket No. 1177–FD]

IN THE MATTER OF THE APPLICATION OF BANNER COAL COMPANY FOR EXEMPTION UNDER SECTION 4–A OF THE BITUMINOUS COAL ACT OF 1937

ORDER OF DISCONTINUANCE

An application pursuant to the provisions of the Second paragraph of Section 4–A of the Bituminous Coal Act of 1937 having been filed by Banner Coal Company (hereinafter referred to as the applicant) with the Bituminous Coal Division, for an order granting exemption from Section 4 of said Act of certain transactions in coal in intrastate commerce; and

Applicant and counsel for the Bituminous Coal Division having entered into a stipulation dated November 29, 1939, to which District Board No. 12 has agreed, consenting to discontinuance and dismissal of said application; and

Applicant and counsel for the Bituminous Coal Division having consented to this Order;

It is ordered That the above application be discontinued and that the above matter be dismissed subject to terms and conditions of said stipulation.

Dated, January 10, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–192; Filed, January 11, 1940; 12:19 p. m.]

[Docket No. 1178–FD]

IN THE MATTER OF THE APPLICATION OF HAWKEYE COAL COMPANY FOR EXEMPTION UNDER SECTION 4–A OF THE BITUMINOUS COAL ACT OF 1937

ORDER OF DISCONTINUANCE

An application pursuant to the provisions of the second paragraph of Section 4–A of the Bituminous Coal Act of 1937 having been filed by Hawkeye Coal Company (hereinafter referred to as the applicant) with the Bituminous Coal Division, for an order granting exemption from Section 4 of said Act of certain transactions in coal in intrastate commerce; and

Applicant and counsel for the Bituminous Coal Division having entered into a stipulation dated November 29, 1939, to which District Board No. 12 has agreed, consenting to discontinuance and dismissal of said application; and

Applicant and counsel for the Bituminous Coal Division having consented to this Order;

It is ordered That the above application be discontinued and that the above matter be dismissed subject to terms and conditions of said stipulation.

Dated, January 10, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–193; Filed, January 11, 1940; 12:19 p. m.]

[Docket No. 1179–FD]

IN THE MATTER OF THE APPLICATION OF GREENE COUNTY COAL & MINING COMPANY FOR EXEMPTION UNDER SECTION 4–A OF THE BITUMINOUS COAL ACT OF 1937

ORDER OF DISCONTINUANCE

An application pursuant to the provisions of the second paragraph of Section 4–A of the Bituminous Coal Act of 1937 having been filed by Greene County Coal & Mining Company (hereinafter referred to as the applicant) with the Bituminous Coal Division, for an order granting exemption from Section 4 of said Act of certain transactions in coal in intrastate commerce; and

Applicant and counsel for the Bituminous Coal Division having entered into a stipulation dated November 29, 1939, to which District Board No. 12 has agreed, consenting to discontinuance and dismissal of said application; and

Applicant and counsel for the Bituminous Coal Division having consented to this Order;

It is ordered, That the above application be discontinued and that the above matter be dismissed subject to terms and conditions of said stipulation.

Dated: January 10, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–194; Filed, January 11, 1940; 12:20 p. m.]

DEPARTMENT OF AGRICULTURE.

Division of Marketing and Marketing Agreements.

DETERMINATION OF THE SECRETARY OF AGRICULTURE APPROVED BY THE PRESIDENT OF THE UNITED STATES WITH RESPECT TO AN ORDER REGULATING THE HANDLING OF MILK IN THE QUAD CITIES, ILLINOIS-IOWA, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the authority vested in him by Public Act No. 10, 73d Congress, as amended, and as reenacted and

amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement and issuance of an order, both of which regulate the handling of milk in the Quad Cities, Illinois-Iowa, marketing area, would tend to effectuate the declared policy of the act, gave, on the 14th day of July 1939, notice of a public hearing to be held on the 2d day of August 1939, at Rock Island, Illinois, on a proposed marketing agreement and proposed order, said hearing being reopened at Rock Island, Illinois, on the 18th day of October 1939,[1] for the purpose of receiving additional evidence, and at such times and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the said proposed agreement and order; and

Whereas, after said hearing and after the tentative approval by the Secretary on the 14th day of December 1939, of a marketing agreement, handlers of more than 50 percent of the volume of milk covered by said proposed order which is marketed within the Quad Cities, Illinois-Iowa, marketing area, refused or failed to sign said tentatively approved marketing agreement relating to milk;

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by said act, hereby determines:

(1) That the refusal or failure of said handlers to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) That the issuance of the proposed order is the only practical means, pursuant to said policy, of advancing the interests of the producers of milk which is produced for sale in said area; and

(3) That the issuance of the proposed order is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary, and who, during the month of September, 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof, Grover B. Hill, Acting Secretary of Agriculture of the United States, has executed this determination in duplicate, and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 8th day of January 1940.

[SEAL] GROVER B. HILL,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States

Dated, January 8, 1940.

[F. R. Doc. 40–170; Filed, January 10, 1940, 4:04 p. m.]

[1] 4 F.R. 4253 DI.

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION THAT THE RAW FUR RECEIVING INDUSTRY IS A SEASONAL INDUSTRY PURSUANT TO SECTION 7 (B) (3) OF THE FAIR LABOR STANDARDS ACT OF 1938 AND PART 526 AS AMENDED OF REGULATIONS ISSUED THEREUNDER

Whereas applications have been made by The Raw Fur and Wool Association of St. Louis, Missouri, Inc., and Sundry Other Parties, under Section 7 (b) (3) of the Fair Labor Standards Act of 1938, and Regulations, Part 526, as amended (Regulations applicable to Industries of a Seasonal Nature), issued by the Administrator thereunder, for partial exemption of the raw fur receiving industry from the maximum hours provisions of Section 7 (a) of said Act pursuant to Section 7 (b) (3) applicable to industries found by the Administrator to be of a seasonal nature; and

Whereas a public hearing on said applications was held [1] before Harold Stein, the representative of the Administrator, duly authorized to take testimony, hear argument and determine whether or not the raw fur receiving industry is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Fair Labor Standards Act of 1938, and Part 526 of Regulations issued thereunder; and

Whereas following such hearing, the said Harold Stein duly made his findings of fact and determined as follows:

1. The legal trapping season in the United States and Canada varies with different animals and from state to state or province to province, and may be longer or shorter than the season in which the pelts are prime but, in any event, the natural season, when the pelts are prime, does not exceed six months. Except for an insubstantial amount, probably less than 5 percent of the total, all the new catch of fur is taken and shipped from the country to the raw fur receiving houses between December 1 and April 1 each year.

2. The raw furs are received each year in the chief fur trading centers, of which New York and St. Louis are the most important, during the trapping season, i. e., from December 1 to April 1, by employers known in the trade as raw fur "receiving houses." In these houses the furs are immediately graded, and, when necessary, scraped and dried. The prompt initial grading is necessary: (1) to set a basis for payment to the trapper or collector, and (2) to determine which skins need scraping and drying for preservation. Skins that have not been properly scraped and dried are perishable; dried skins are not perishable.

[1] 4 F.R. 4661 DI.

3. The majority of the furs received are also sold by the receiving houses during the period December 1 to April 1, but some skins are sold during the balance of the year. Aside from these sales, and aside from an insubstantial amount of trading in dried raw furs as dealers with other dealers and receivers, the receiving houses cease operation on or about April 1 each year because the materials they handle, i. e., the annual domestic catch of fur, are no longer available in the form in which they must be handled, i. e., as new prime pelts requiring inspection and, in many cases, scraping and drying, until the following December 1 or thereabouts, because of climate and other natural factors.

4. The business of the raw fur receiving houses constitutes a specialized function not performed by other fur dealers or processors, with specialized employees and the raw fur receiving industry is a branch of an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of Regulations issued thereunder.

5. "Raw fur receiving houses" as used herein shall include all employers who (a) receive all or almost all their furs from country sources, i. e., trappers, farmers, and country collectors and dealers, and (b) engage in the operations of scraping and drying, as well as operations incidental thereto.

6. The term "raw fur receiving industry" as used herein shall include the receiving, scraping, drying and grading, in raw fur receiving houses, of domestic furs received from country sources and operations immediately incidental thereto.

7. The term "domestic furs" as used herein shall include United States and Canadian furs.

Whereas said Findings and Determination were duly filed with the Administrator on the 8th day of January, 1940 and are now on file in Room 5144, Department of Labor Building, Washington, D. C., and available for examination by all interested parties:

Now, therefore, pursuant to the provisions of Section 526.7 of the aforesaid Regulations, notice is hereby given that any person aggrieved by the said determination may, within fifteen days after the date this notice appears in the FEDERAL REGISTER, file a petition with the Administrator requesting that he review the action of the said representative upon the record of hearing before the said representative.

Signed at Washington, D. C., this 11th day of January 1940.

HAROLD D. JACOBS,
Administrator.

[F. R. Doc. 40–179; Filed, January 11, 1940; 11:50 a. m.]

NOTICE OF DESIGNATION OF PRESIDING OFFICER FOR HEARING ON MINIMUM WAGE RECOMMENDATION OF INDUSTRY COMMITTEE NO. 8 FOR THE KNITTED UNDERWEAR AND COMMERCIAL KNITTING INDUSTRY

Whereas the Notice of Hearing [1] on the Minimum Wage Recommendation of Industry Committee No. 8 for the Knitted Underwear and Commercial Knitting Industry provided that said hearing will be held before a presiding officer to be designated by the Administrator before January 16, 1940; and

Whereas the issues to be presented at said hearing have been narrowly confined by Section 8 of the Fair Labor Standards Act of 1938 and by the report and recommendation of Industry Committee No. 8;

Now, therefore, it is hereby ordered and notice is hereby given that:

1. Thomas Holland be the Presiding Officer at said hearing on the minimum wage recommendation of Industry Committee No. 8 and conduct said hearing in accordance with the rules published in the notice of said hearing; and

2. No intermediate report will be prepared by the Presiding Officer unless so directed by the Administrator, but in lieu thereof, the Presiding Officer shall turn over to the Administrator at the close of the hearing the complete record of the proceedings had before him and the Administrator shall thereafter hear oral argument or accept written briefs upon said record or both as he may determine.

Signed at Washington, D. C. this 11th day of January 1940.

HAROLD D. JACOBS,
Administrator.

[F. R. Doc. 40–180; Filed, January 11, 1940; 11:50 a. m.]

NOTICE OF DESIGNATION OF PRESIDING OFFICER FOR HEARING ON MINIMUM WAGE RECOMMENDATION OF INDUSTRY COMMITTEE NO. 7 FOR THE KNITTED OUTERWEAR INDUSTRY

Whereas the Notice of Hearing [2] on the Minimum Wage Recommendation of Industry Committee No. 7 for the Knitted Outerwear Industry provided that said hearing will be held before a presiding officer to be designated by the Administrator before January 22, 1940; and

Whereas the issues to be presented at said hearing have been narrowly confined by Section 8 of the Fair Labor Standards Act of 1938 and by the report and recommendation of Industry Committee No. 7;

Now, therefore, it is hereby ordered and notice is hereby given that:

1. Thomas Holland be the Presiding Officer at said hearing on the minimum wage recommendation of Industry Committee No. 7 and conduct said hearing in accordance with the rules published in the notice of said hearing; and

2. No intermediate report will be prepared by the Presiding Officer unless so directed by the Administrator, but in lieu thereof, the Presiding Officer shall turn over to the Administrator at the close of the hearing the complete record of the proceedings had before him and the Administrator shall thereafter hear oral argument or accept written briefs upon said record or both as he may determine.

Signed at Washington, D. C., this 11th day of January 1940.

HAROLD D. JACOBS,
Administrator.

[F. R. Doc. 40–181; Filed, January 11, 1940; 11:52 a. m.]

NOTICE OF OPPORTUNITY TO SUBMIT WRITTEN BRIEFS TO THE ADMINISTRATOR ON OR BEFORE FEBRUARY 3, 1940, IN THE MATTER OF THE RECOMMENDATIONS OF INDUSTRY COMMITTEE NO. 2 FOR MINIMUM WAGES IN THE APPAREL INDUSTRY

Whereas a hearing has been held [1] from November 13, 1939, to January 10, 1940, before Thomas G. Holland, the duly appointed representative of the Administrator, at which all persons interested in the report and recommendations of Industry Committee No. 2 concerning minimum wage rates for the Apparel Industry were given opportunity to be heard and to offer evidence, and

Whereas it is the intention of the Administrator to give opportunity to all persons who appeared at said hearing to argue orally before him at some future time, notice of which will be given in the FEDERAL REGISTER,

Now, therefore, notice is hereby given that, as announced at the hearing, the Administrator will receive written briefs (not fewer than 12 copies) at the Department of Labor, Washington, D. C., from persons who have entered an appearance at said hearing, bearing on the issues which are before him in this matter provided that such briefs are submitted to him on or before 1:00 P. M. Saturday, February 3, 1940.

Signed at Washington, D. C., this 11th day of January 1940.

HAROLD D. JACOBS,
Administrator.

[F. R. Doc. 40–187; Filed, January 11, 1940; 12:08 p. m.]

NOTICE OF ISSUANCE OF A SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued to the employers listed below effective January 12, 1940, until May 10, 1940, unless otherwise indicated, subject to the following terms and limited to the number of learners indicated opposite the employer's name:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Apparel Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than eight weeks experience in the past three years upon a stitching operation in the Apparel Industry.

(2) The employment of learners under these Certificates is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour but in no case less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employer that (a) experienced stitching machine operators are not available and (b) that he is actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment.

(4) Under these Special Certificates, no learner shall be employed at a sub-minimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

(5) These Special Certificates are issued ex parte under Section 14 of the said Act and Section 522.5 (b) of the Regulations, Part 522, as amended. For fifteen days following the publication of this notice, the Administrator will receive detailed written objections as provided for in said Section 522.5 (b). Such Special Certificates may be canceled as of the date of issuance and if so canceled, reimbursement of all persons employed under such Certificate must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

Name and address of firm	Product	Number of learners
Manistee Garment Company, Cadillac, Michigan.	Wash dresses..	15

Signed at Washington, D. C., this 11th day of January 1940.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 40–196; Filed, January 11, 1940; 12:31 p. m.]

[1] 4 F.R. 4949 DI.
[2] 4 F.R. 4948 DI.

[1] 4 F.R. 4281 DI.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act, Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective January 12, 1940, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Apparel Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than eight weeks experience in the past three years upon a stitching operation in the Apparel Industry.

(2) The employment of learners under these Certificates is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour, but in no case less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employers that experienced stitching machine operators are not available.

(4) Any one of these Special Certificates may be canceled as of the date of its issue if found that experienced workers were available when the Certificate was issued and may be canceled prospectively or as of the date of violation if found that any of its terms have been violated or that skilled workers have become available.

(5) Under these Special Certificates, no learner shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

NUMBER OF LEARNERS

Not in excess of 5% of the total number of stitching machine operators employed in the plant may be employed under any of these Certificates, unless otherwise indicated hereinbelow opposite the employer's name:

NAME AND ADDRESS OF FIRM AND PRODUCT

Manistee Garment Company, Cadillac, Michigan (5 learners), wash dresses.

Rice-Stix Factory No. 15, Lebanon, Missouri, overalls, pants, and playsuits.

Troutman Shirt Company, Troutman, North Carolina, work shirts.

Signed at Washington, D. C., this 11th day of January 1940.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 40–197; Filed, January 11, 1940; 12:31 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective January 12, 1940, until September 18, 1940, subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

[*Here follows, in the original document, a table identical with that appearing in the "Federal Register" for Thursday, September 7, 1939.*]

NUMBER OF LEARNERS

Not in excess of 5% of the total number of factory workers employed in the plant may be employed under any of these certificates, unless otherwise indicated hereinbelow.

These Special Certificates are issued ex parte under Section 14 of the said Act, Section 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written objections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in said Section 522.5 (b), such Special Certificates, or any of them, may be canceled as of the date of their issuance and if so canceled, reimbursement of all persons employed under such certificates must be made in any amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

NAME AND ADDRESS OF FIRM

Culpepper Hosiery Mills, Danville, Virginia (3 learners).

Signed at Washington, D. C., this 11th day of January 1940.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 40–198; Filed, January 11, 1940; 12:31 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective January 12, 1940, to September 12, 1940, unless otherwise indicated subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

[*Here follows, in the original document, a table identical with that appearing in the "Federal Register" for Thursday, September 7, 1939.*]

These Special Certificates are issued ex parte under Section 14 of the said Act, Section 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written objections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in said Section 522.5 (b), such Special Certificates, or any of them, may be canceled as of the date of their issuance and if so canceled, reimbursement of all persons employed under such certificates must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

NAME AND ADDRESS OF FIRM AND NUMBER OF LEARNERS

Galax Knitting Company, Galax, Virginia (15 learners).

Signed at Washington, D. C., this 11th day of January 1940.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 40–199; Filed, January 11, 1940; 12:31 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE KNITTED WEAR INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Knitted Wear Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued to the employers listed below effective January 12, 1940, until May 10, 1940,

unless otherwise indicated, subject to the following terms and limited to the number of learners indicated opposite the employer's name.

OCCUPATIONS, WAGE RATES AND CONDITIONS

The employment of learners in the Knitted Wear Industry, under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has not been previously employed for more than eight (8) weeks in the aggregate during the preceding three (3) years upon sewing machine or knitting machine operations, respectively.

(2) The employment of learners under these Certificates is limited to the operation of sewing machines and knitting machines and for eight (8) weeks for any one learner. During this period, no learner may be paid at a rate less than 22½¢ an hour: *Provided, however,* That if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rate if in excess of 22½¢ per hour but in no event less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employers that: (a) experienced operators are not available, and (b) that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment.

(4) Under these Special Certificates, no learners shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(5) These Special Certificates are issued ex parte under Section 14 of the said Act and Section 522.5 (b) of Regulations Part 522, as amended, and are subject to cancelation sooner by the Administrator or his authorized representative for cause. The Certificates may be canceled as of the date of their issuance if it is found, upon objection duly filed within fifteen days following the publication of notice of their issuance, that the issuance of these Certificates was not necessary to prevent curtailment of opportunities for employment. They may be canceled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. Altering or attempting to alter this Certificate will render it invalid.

Name and address of firm	Product	Number of learners
Coopers, Inc., Kenosha, Wisconsin.	Knit underwear.	45

Signed at Washington, D. C., this 11th day of January 1940.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 40–200; Filed, January 11, 1940; 12:32 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act and Section 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective January 12, 1940, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Textile Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than six (6) weeks experience in the aggregate in any of the learner occupations listed below in any branch of the Textile Industry except tufted bedspreads and curtains.

(2) Learners may be employed under these Certificates only in the occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, but not in occupations similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, and employees engaged in similar work, and no learner shall be employed at less than the minimum rate for more than six (6) weeks.

(3) No learner may be paid at a rate less than 25 cents an hour: *Provided, however,* That if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rates if in excess of 25 cents per hour but in no event less than 25 cents per hour.

(4) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when experienced workers were not available. No learner may be employed under these Certificates until and unless a copy of the certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(5) These Certificates expire October 24, 1940 and are subject to cancelation sooner by the Administrator or his authorized representative for cause. These Certificates are issued on representations by the employers that experienced workers are not available and may be canceled as of the date of issue if it is found that they were issued when experienced workers were available and may be canceled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the employer's certificate must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

NUMBER OF LEARNERS

Not in excess of three (3) percent of the total number of persons in the learner occupations herein described employed in the plant may be employed under these Certificates unless otherwise indicated hereinbelow opposite the employer's name.

NAME AND ADDRESS OF FIRM AND PRODUCT

Manville Jenckes Corporation, Manville, Rhode Island, clothing linings, dress goods and suitings.

Primrose Tapestry Co., Inc., Rome, Georgia (2 learners), tapestries.

Startex Mills, Tucapan, South Carolina, print cloths and crash towels.

Signed at Washington, D. C., this 11th day of January 1940.

MERLE D. VINCENT,
Director, Hearings Branch.

[F. R. Doc. 40–201; Filed, January 11, 1940; 12:32 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 10th day of January 1940.

[File No. 1–1170]

IN THE MATTER OF THE MEXICO-OHIO OIL COMPANY COMMON STOCK, NO PAR VALUE

ORDER POSTPONING HEARING

The Mexico-Ohio Oil Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the New York Curb Exchange; and

The Commission having ordered that a hearing be held in this matter on

January 23, 1940, in Cleveland, Ohio; and

Counsel for the Commission having requested a postponement of said hearing;

It is ordered, That said hearing be postponed until 10 A. M. on Tuesday, February 6, 1940 at the office of the Securities and Exchange Commission, 1370 Ontario Street, Cleveland, Ohio, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That James C. Gruener, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–182; Filed, January 11, 1940; 12 m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 10th day of January, A. D. 1940.

[File No. 1–210]

IN THE MATTER OF VIRGINIA IRON, COAL AND COKE COMPANY COMMON STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $100 par value, of Virginia Iron, Coal and Coke Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and for the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on January 30, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–184; Filed, January 11, 1940; 12 m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 10th day of January, A. D. 1940.

[File No. 8–1]

IN THE MATTER OF BANKERS SECURITIES COMPANY, INC.

ORDER REVOKING REGISTRATION

The Commission having instituted a proceeding pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, to determine whether the registration of Bankers Securities Company, Inc. as a dealer should be revoked or suspended; the order for proceedings and notice of hearing having been personally served on Samuel R. Smith, pursuant to registrant's authorization in its application for registration; a hearing on said order having been duly held; the record in this matter having been duly considered; and the Commission having made appropriate findings of fact;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, that the registration of Bankers Securities Company, Inc., a Delaware corporation, as a dealer be, and the same hereby is, revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–183; Filed, January 11, 1940; 12 m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of January, A. D. 1940.

[File Nos. 60–8 and 51–30]

IN THE MATTER OF ASSOCIATED GAS AND ELECTRIC CORPORTATION

ORDER FORBIDDING DECLARATION OR PAYMENT OF DIVIDENDS, ETC.

The Commission having entered an order pursuant to Section 12 (c) of the Public Utility Holding Company Act of 1935, that Associated Gas and Electric Corporation show cause why the Commission should not enter an order preventing the declaration or payment of further dividends to protect the financial integrity of companies in Associated Gas and Electric Corporation's holding company system, to safeguard the working capital of public utility companies in such system, to prevent payment of dividends out of capital or unearned surplus of Associated Gas and Electric Corporation, and to prevent the circumvention of the provisions of the Public Utility Holding Company Act of 1935 or the rules, regulations, or orders thereunder;

Associated Gas and Electric Corporation having filed an application under Rule U–12C–3 adopted by the Commission pursuant to Section 12 (c) of the Public Utility Holding Company Act of 1935 for leave to pay interest from time to time on its 5% cumulative income note in the face amount of $80,000,000 (of which $71,805,120 is unpaid) and having moved for the entry of an interim order granting leave to make a payment of $557,000 thereon;

A hearing having been held thereon before a trial examiner; a trial examiner's report having been waived, oral argument having been heard by the Commission and briefs having been submitted to the Commission;

The Commission having considered the record and briefs and being fully advised in the premises and having this day filed its findings and opinion, finding that declaration or payment of dividends by Associated Gas and Electric Corporation would be out of capital or unearned surplus and would impair the financial integrity of that corporation;

It is ordered, That Associated Gas and Electric Corporation be and it is hereby forbidden to declare or pay any dividends on its capital stock until the further order of this Commission;

It is further ordered, That said motion for an interim order be and it is hereby denied;

It is further ordered, That the Commission shall reserve jurisdiction to vacate or modify this order after hearing on any application therefor that may be filed by Associated Gas and Electric Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–185; Filed, January 11, 1940; 12 m.]